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Elimination of racism and racial discrimination, xenophobia and intolerance

Contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Note by the Secretary-General

The Secretary-General has the honour to transmit to members of the General Assembly the report submitted by Githu Muigai, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, on the implementation of General Assembly resolution 63/162.

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Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the implementation of General Assembly resolution 63/162

Summary

The present report to the General Assembly is submitted pursuant to Assembly resolution 63/162 on the inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, which requests the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to prepare a report on the implementation of the resolution, based on the views collected from stakeholders.

Following a brief introduction on the content of resolution 63/162, the Special Rapporteur summarizes the contributions sent by 18 States on the implementation of the resolution and then puts forward a number of conclusions and recommendations.

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I. Introduction

1. In its resolution A/63/162, the General Assembly, alarmed at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, noted with concern, in paragraph 4, "the increase in the number of racist incidents in several countries and the rise of skinhead groups, which have been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of ethnic, religious or cultural communities and national minorities, as observed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his latest report" (A/63/339).

2. In paragraph 5 of the resolution, the Assembly reaffirmed that "such acts may be qualified to fall within the scope of activities described in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, and that they may represent a clear and manifest abuse of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of opinion and expression within the meaning of those rights as guaranteed by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination".

3. In paragraphs 7 and 8, the Assembly stressed that "such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups" and emphasized "the need to take the necessary measures to put an end to the practices described above".

4. In the context of the foregoing, the Assembly, in paragraph 11, recalled "the request of the Commission on Human Rights in its resolution 2005/5 that the Special Rapporteur continue to reflect on this issue, make relevant recommendations in his future reports and seek and take into account in this regard the views of Governments and non-governmental organizations". In paragraph 12, the General Assembly requested "the Special Rapporteur to prepare, within existing resources, for submission to the General Assembly at its sixty-fourth session and the Human Rights Council, reports on the implementation of the present resolution based on the views collected in accordance with the request of the Commission on Human Rights", as recalled by the Assembly in paragraph 11 of the resolution.

5. In accordance with practice established in previous reports, the present report summarizes information received on activities undertaken by Member States pursuant and relevant to resolution 63/162. In preparing the report, the Special Rapporteur requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to send a note verbale on 12 May 2009 to Member States requesting information on the implementation of the resolution, to be received by 21 June 2009.

6. Following the request for contributions, submissions were received up to 12 August 2009 from 18 Member States namely, Bosnia and Herzegovina, Cyprus, Guatemala, Iraq, Japan, Kazakhstan, Lebanon, Mauritius, Monaco, Morocco, the Russian Federation, Spain, Switzerland, the Syrian Arab Republic, Togo, Turkmenistan, Ukraine and Venezuela (Bolivarian Republic of). The information

received from Member States is summarized in the present report. The original text of the contributions is available for consultation at the Secretariat.

II. Contributions received by Member States

A. Bosnia and Herzegovina

7. In its reply, Bosnia and Herzegovina indicated that according to its Constitution, all persons in its territory are equal in exercise of their human rights and fundamental freedoms. In this regard, reference was made to the right to life and the rights to personal freedom and security, which include the ban of torture, inhuman treatment and punishment, the ban of slavery, freedom of thought, conscience and religion, freedom of expression, rights to peaceful gathering and choice of residence.

8. Bosnia and Herzegovina referred to the European Convention on Human Rights, which directly applies within its jurisdiction. Consequently, the general ban on discrimination as contained in the European Convention on Human Rights and its Protocol 12 apply in Bosnia and Herzegovina. In its reply, Bosnia and Herzegovina also referred to other international human rights instruments based on the principle of the prohibition of discrimination.

9. Bosnia and Herzegovina reaffirmed its commitment to the development of a democratic society and European integration process without retrograding elements such as fascist and neo-fascist organizations, which unfortunately played a significant role in the tragic conflict from 1992 to 1995. Having learned from this negative experience, Bosnia and Herzegovina has recently put in place a law on the ban of work of all fascist and neo-fascist organizations in Bosnia and Herzegovina and the use of their symbols. The Government emphasized that this law was in line with international human rights standards and contributed to a great extent to the enhancement and implementation of human rights within the national legal system.

B. Cyprus

10. In its reply, Cyprus provided information indicating that since May 2004, when it joined the European Union, significant efforts, in particular in terms of legislation, structural changes and awareness-raising have been made in the area of anti-discrimination by all competent national authorities.

11. With regard to its legislation, Cyprus pointed out that it had ratified most European and United Nations Conventions relating to discrimination. Following amendments to the Law ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, Cyprus has defined specific criminal offences related to racial, ethnic or religious discrimination. In addition, a number of laws have been adopted in the area of discrimination. They include the 2004 Equal Treatment (Racial or Ethnic Origin) Law; the 2004 Equal Treatment in Employment and Occupation Law; the revised 2000 Persons with Disabilities Law; the Criminal code (Amendment) Law No. 4(1)/2002 relating to the abolition of any discriminatory legal provision with regard to homosexual acts; the 2008 Equal Treatment of Men and Women (Access to Goods and Services) Law; and the revised

2002 Equal Treatment between Men and Women in Employment and Vocational Training. Other laws have also been enacted in relation to asylum-seekers, detainees and the principle of the reversal of burden of proof. Currently, provisions are being considered in order to enable racist motives to be taken into consideration as an aggravating factor in sentencing.

12. Cyprus described various remedies available in case of discrimination in the enjoyment of human rights guaranteed by its Constitution. In this respect, individuals can sue the State or private persons in civil courts. In accordance with the 2004 Combating of Racism and Other Discrimination (Commissioner) Law, the Commissioner for Administration has been vested with special competencies, duties and powers for combating and eliminating discrimination in both public and private sectors. Under the provisions of this law, the Ombudsman may receive complaints by any person or group who have been subjected to discrimination in the enjoyment of rights safeguarded by the Constitution or by the applicable international human rights instruments. In addition, a mechanism has been created for investigating complaints against police misconduct, including human rights violations. In relation to remedies, Cyprus also provided information about the creation of the Cyprus Equality Body, comprised of the Anti-discrimination Body and the Equality Authority. The Anti-discrimination Body handles claims regarding discrimination in relation to access and supply of goods and services, social security and social protection schemes, education and health care, while the Equality Authority deals with claims regarding discrimination in the workplace.

13. Following the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and related Intolerance, a National Action Plan against Racism was drawn up in Cyprus. The development of the plan was a significant opportunity to build upon and enhance existing policies and strategies to combat racism in Cyprus and to identify new priorities, aspirations and areas of work that could be drawn together into the overall, cohesive plan. Following this plan, several other national plans were set up, including the National Plan for Employment, the National Action Plan for Social Inclusion and the National Action Plan on Gender Equality. National policies for people with disabilities were also introduced.

14. Numerous awareness-raising activities have been undertaken by Cyprus in the area of non-discrimination. Some of them focused on the education and vocational training of police members; the rights and obligations of the employees and employers; equality issues in schools; the Ombudsman's competences; guidelines for media professionals to ensure the use of non-discriminatory language in their text and the ways with which media can help foster equality; and the situation of refugees.

15. In its reply, Cyprus furthermore provided comprehensive information about several good practices undertaken in the area of non-discrimination. Those good practices relate to the protection of several categories of persons, including women, immigrants, refugees, asylum-seekers, members of the Turkish community in Cyprus, domestic workers and victims of trafficking. These good practices cover a wide array of issues, including the conduct of police officers; the investigations of complaints against police misconduct; ethnic profiling; the existence of media for minorities; the conduct of surveys; housing projects; and access to health care.

C. Guatemala

16. While racial discrimination continues to exist worldwide, often leading to xenophobia, violence and in extreme cases, genocide, Guatemala affirmed in its reply that it has sought to establish a multilingual, multi-ethnic and pluricultural country whose policies strongly reject xenophobia or the establishment of any neo-Nazi or racist organizations. With the signing of the 1996 Peace Accords and in the framework of developing a culture of peace, Guatemala has sought to combat racial discrimination and intolerance and to foster respect for the rights of the indigenous peoples in the country.

17. At the national level, Guatemala stressed that policies have been established to allow foreigners to enter the country along with those seeking asylum, in compliance with the 1951 Geneva Convention relating to the Status of Refugees and its Protocol. The Law on Migration (legislative decree 95-98) stipulates that "... foreigners can be prohibited from entering or expelled from the country in the interests of maintaining public order and protecting State security. A reasoned decision must be prepared by the Director General of Migration before a non-national can be expelled".

18. It was noted that while Spanish is the official language of the State, there are 24 other languages spoken in the country. These, however, are limited to the private sphere and have minimum representation at the State level. Reference was made to article 66 of the Constitution which recognizes the ethnic diversity of the country, but does not, however, affirm the Accord on the Identity and Rights of Indigenous Peoples, which describes Guatemala as a multi-ethnic, pluricultural and multilingual state. It was noted that the 1999 Constitutional reform project attempted to address this issue but was met with resistance from the majority of the population.

19. The Government's public policy agenda on indigenous peoples, in accordance with the Peace Accords for the period between 2005 to 2012, resulted in the establishment of the Presidential Secretariat on Planning and Programming. It is one of the main State institutions tasked with ensuring the implementation of the Accord on the Identity and Rights of Indigenous Peoples. In 2006, the Presidential Secretariat, in coordination with the Vice-Presidency of the Republic and the Presidential Commission on Racism and Discrimination against Indigenous Peoples in Guatemala, carried out a study on the economic costs of discrimination. The study was used as the basis for the development of public policy on the elimination of racism and racial discrimination.

20. Guatemala referred to the importance of eliminating racist practices and discrimination against indigenous and Afro-descendant peoples and noted that the challenge lies not only with public institutions but with all members of society. Reference was made to the economic, social and political inequalities which mainly affect indigenous peoples. Within the framework of the Peace Accords and the Durban Declaration and Programme of Action adopted at the World Conference against Racism, institutional mechanisms have been established to combat racism including the aforementioned Presidential Commission, the Mayan Language Institute of Guatemala, and the State Congress Committee for indigenous peoples. Guatemala also indicated that the rights of the indigenous peoples have been strengthened through the System of the Councils of Rural and Urban Development. Public policy initiatives, such as the Public Policy on the Elimination of Racial

Discrimination, have also been introduced to ensure that indigenous peoples and other social groups are protected from racial discrimination or social and economic exclusion. In addition, social programmes have been established through the Presidential Secretariat to promote public participation, economic development, access to justice and health care and for indigenous peoples.

21. Guatemala stressed that it has ratified the International Convention on the Elimination of All Forms of Racial Discrimination. Reference was also made to relevant legislative decrees, which introduced the crime of racial discrimination and which amended the Labour Code by prohibiting any type of racist discrimination within the workplace.

22. The Institute for Public Defence also provides training and cultural sensitization programmes for Public Prosecutors and those working in the legal sphere. Fifteen Public Prosecutors representing the indigenous community were appointed to ensure that legal representation is provided in local languages. Finally, reference was made to the human rights coordination within the Institute of Public Criminal Defence as the agency responsible for monitoring the implementation of all measures for the elimination of any form of racial discrimination.

D. Iraq

23. In its reply, Iraq stated that notwithstanding the efforts to eliminate apartheid and race hate policies, racist practices and racial discrimination continue to afflict the world. New tools must therefore be created to combat racism and to further international cooperation. Iraq referred to the decisive role of the media in disseminating information on ways and means of combating racism.

24. At the national level, Iraq provided information on its support and assistance to international efforts to combat racial discrimination in all its forms. In this regard, reference was made to the relevant provisions contained in articles 2, 7, 14, 16, 20, 41, 42 and 43 of Iraq's Constitution. Reference was also made to legislation on the protection of minorities, such as the amendment to article 50 of the Regional Councils Election Act, which guarantees freedom to perform religious rituals, freedom of expression and opinion and the right to learn one's mother tongue. The rights of foreigners living in Iraq are also protected.

25. With regard to the relevant international legal instruments, Iraq indicated that it had ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid and the International Convention on the Elimination of All Forms of Racial Discrimination. Under the International Convention on the Elimination of All Forms of Racial Discrimination, Iraq submitted 14 reports on the implementation in its territory of the various articles of the Convention, including articles 4 and 5, which require States to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, discrimination and to guarantee the full rights of everyone, without distinction as to race, colour, or national or ethnic origin.

26. Finally, Iraq underlined its new approach adopted in 2003, which emphasizes international cooperation and solidarity and the application of the principles of good neighbourliness. In doing so, Iraq seeks to create a climate of tolerance and to eliminate all the tensions experienced by the country as a result of the way the

former regime dealt with the international community, in particular with neighbouring States.

E. Japan

27. In its reply, Japan referred to its Constitution, which provides that "all of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin".

28. Japan has set up several legal provisions in order to sanction dissemination of discriminatory ideas, incitement to racial discrimination and violence perpetrated against an ethnic or racial group. For instance, whereas there are no specific domestic provisions that stipulate what constitutes a racially discriminatory expression, the criminal code punishes the dissemination of ideas which constitute a crime of defamation, an insult or damage, credit or obstruction of business. If these ideas include threatening content, then they might be punishable as a crime of intimidation. Likewise, although there is no specific law to severely punish violence against a certain group, the criminal code contains riot provisions for cases in which a large number of persons assemble and use violence or threat and other criminal provisions such as rape, homicide, bodily injury, unlawful meeting and assembly with dangerous weapons and robbery. Concerning incitement to racial discrimination, it is punishable as a crime of instigation, according to the criminal code.

29. In addition, regulations in the field of telecommunication have been adopted. According to the Broadcast Law, each broadcasting company has the duty to broadcast properly, lest any broadcast programme should harm public security, good morals and manners by disseminating or inciting racial discrimination and by justifying or encouraging violence. As for the Internet, the Association of Electronic Networks organized by personal computer communication service providers formulated a Code of Ethics and the Rules and Manners for Users of Personal Computer Communication in order to prevent ethical problems, such as slander or abuse of others based on racial hatred, from arising. A number of guidelines have also been drafted by industry associations so as to prevent illegal and harmful information on the Internet, including racist information. They include the Guidelines for Business Practices of Internet Service Providers, the Model Provision for Internet Subscription Contracts, the Guidelines for Providing Internet Services and the Guidelines for Defamation and Privacy. Furthermore, since August 2005, the Japanese Government has convened the Study Group on Countermeasures against Illegal/Harmful Information on the Internet.

30. On the question of the prohibition of groups that promote or incite racial discrimination, as prescribed by article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, Japan indicated that there exists no such provision in its legal system. However, if an organization promoting or inciting racial discrimination engages in violent, destructive activities contrary to the Subversive Activities Prevention Law, the said Law, under certain conditions, may restrict its activities, order its dissolution, or punish it or its members.

31. Finally, Japan provided information about various activities which promote human rights-oriented education in schools. The Ministry of Education, Culture,

Sports, Science and Technology has implemented various projects designed to improve and enrich the methods of human rights education, including designating a certain number of schools for research on human rights education.

F. Kazakhstan

32. In its reply, Kazakhstan indicated that its policy was based on respect for the interests of all ethnic groups. Vigorous efforts have been made to take specific steps at the national, regional and international levels, to protect human rights and in particular to fight racial discrimination, xenophobia and related intolerance, as well as discrimination against persons affected by various pandemic diseases and other forms of discrimination.

33. At the international level, Kazakhstan has acceded to the International Convention on the Elimination of All Forms of Racial Discrimination, which takes precedence over domestic law. It respects its reporting obligations and reviews major domestic regulatory and legal acts accordingly. Due attention is also paid to all the issues raised in the Durban Declaration adopted at the World Conference and Kazakhstan fully complies with the recommendations contained therein, both in its legislation and in social relations in the social, economic, political, cultural, ethnic and religious spheres. Accordingly, article 14, paragraph 2, of the Constitution states: "No one shall be subject to any discrimination based on descent, social origin, professional status, personal assets, gender, race, ethnicity, language, religion, beliefs, place of residence or any other consideration."

34. Under the Education Act, fundamental principles of State educational policy include the principle that all citizens have an equal right to education and that all segments of society shall have access to education at all levels. In addition, all citizens of Kazakhstan, regardless of ethnic, racial, religious or social background, enjoy equal access to education, including education in their mother tongue. School curricula at all grade levels include various activities designed to consolidate a culture of inter-ethnic and interracial understanding.

35. The Assembly of the People of Kazakhstan is a consultative body with constitutional status that brings together the cultural heritage organizations of all ethnic groups living in Kazakhstan. As such, it ensures that the interests of all ethnic groups are respected at the highest legislative level. Cultural heritage organizations have Sunday schools that provide instruction in the language, traditions and history of their particular ethnic group.

36. In addition to the above, a special inter-ethnic relations research centre has been established under the Ministry of Culture and Information. The centre draws up an ethnic map of Kazakhstan each year based on its research. It regularly studies migration processes and the social well-being of various ethnic minorities. It also makes recommendations to State bodies based on its findings.

37. In the field of media, Kazakhstan emphasized that one of their main responsibilities was to instil in the public a strong sense of the need to preserve the existing level of inter-ethnic harmony and to prevent potential crises from disrupting social stability. Public awareness activities in this area entail the production of topical broadcasts, the regular airing of national television spots and the publication of specialized materials, articles, interviews and opinion pieces in the national press.

In addition to its targeted public relations work, the Ministry of Culture and Information devotes considerable attention to studying and analysing materials published and broadcast on this topic. For example, the electronic and print media and websites are constantly monitored for incitement to ethnic hatred and other unlawful actions.

G. Lebanon

38. In its reply, Lebanon indicated that the General Security Department concentrates on improving conditions for foreigners, including their health and conditions of detention. The Government of Lebanon puts emphasis on treating foreigners in a manner consistent with humanitarian law and human rights standards and with the prevailing laws, which apply to Lebanese nationals and foreigners alike.

39. The Government of Lebanon furthermore stressed its commitment to ensure that foreigners are not subjected to acts of intolerance and racism and that their rights, such as the rights to peaceful assembly and to freedom of opinion are protected. It reiterated that it was bound by international instruments on the elimination of all forms of racial discrimination.

H. Mauritius

40. In its response, Mauritius indicated that Section 3 of its Constitution provides that certain human rights and fundamental freedoms shall exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but they are subject to respect for rights and freedoms of others and for the public interest. Those rights and freedoms include the right to life, liberty, security of the person and the protection of the law; freedom of conscience, expression, assembly and association and freedom to establish schools; and the right of the individual to protection for the privacy of his home and other property and from deprivation of property without compensation.

41. Section 16 of the Constitution specifically provides for protection from discrimination on the grounds of race, caste, place of origin, political opinions, colour, creed or sex. The Equal Opportunities Act, which is not yet in force, covers the different aforementioned grounds of discrimination and adds other grounds of discrimination. The Act also provides for the establishment of an Equal Opportunities Commission and an Equal Opportunities Tribunal.

42. Mauritius also provided information about the National Human Rights Commission, which is empowered to enquire into any written complaint from any victim alleging a human rights violation by the act or omission of a person acting under the State authority. In addition to the police authorities, citizens may also have recourse to the Office of the Ombudsman and to the Office of the Attorney-General. Any individual may resort to the Supreme Court, if one of his or her fundamental rights has been or is likely to be breached.

43. Material which is indecent, obscene or offensive to public morals or offensive to religious convictions or feelings of any section of the population is prohibited or

sanctioned under the Information and Communication Technologies Act 2001 or under the independent Broadcasting Authority Act.

44. The Sex Discrimination Division of the National Human Rights Commission is empowered to receive and enquire into any written complaints regarding alleged infringements of the Sex Discrimination Act and to make recommendations in various fields, including employment and education. Sexual discrimination is generally understood as discrimination based on sex, marital status, pregnancy or family responsibility.

45. Finally, Mauritius provided information about various offences pertaining to discrimination in its criminal code which allow the police to carry out investigations and which can be prosecuted by the Office of the Director of Public Prosecutions.

I. Monaco

46. In its reply, Monaco indicated that the enjoyment of fundamental freedoms was guaranteed by its Constitution without distinction based on race, colour, sex, language, religion, political opinion or any other ground.

47. At the international level, Monaco has ratified the European Convention on Human Rights and other international instruments relating to racism and intolerance, including the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention relating to the Status of Refugees, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. In addition, Monaco has made the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State party of any of the rights set forth in the International Convention on the Elimination of All Forms of Racial Discrimination.

48. Monaco has enacted specific legislation in order to fight the phenomena of racism and intolerance, including the 2005 law on public freedom of expression, which punishes those who incite hatred or violence against persons or groups of persons on the basis of ethnicity, nationality, race, religion or sexual orientation. Other legal provisions aimed at protecting human dignity against the dissemination of violent and pornographic messages have also been put into place. In addition, a law has been enacted in order to prohibit the collection, processing and use of disaggregated data on the basis of race and religion, unless the individuals concerned give their consent.

49. Currently, the inclusion in the criminal code of a definition of racial discrimination and of aggravating circumstances due to the racist, anti-Semitic or xenophobic nature of the offence, are being considered. In any event, crimes or offences with such motives are actually punishable under ordinary law.

50. Monaco indicated that its magistrates are offered training, which includes human rights education, in particular in the area of discrimination. Police officers

also receive specific instructions in order not to discriminate individuals on the basis of their nationality, origins or religious beliefs.

51. In the field of education, measures have been taken in order to ensure that children with various backgrounds are treated equally. Initiatives in human rights education have also been launched in order to familiarize children and teachers with human rights. For instance, a campaign called "All different, all equal: youth campaign for diversity, human rights and participation" has been implemented at the national level in all educational institutions.

J. Morocco

52. In its reply, Morocco reaffirmed its commitment and adherence to international human rights instruments and recalled that it was engaged in a process aimed at bringing its national legislation in line with international standards. With regard to legislation relating to the fight against racial discrimination, Morocco referred to its Criminal and Labour Codes, as well as to legislation in the areas of civil liberties and penitentiary institutions.

53. The Government emphasized that Morocco's Criminal Code provides a definition of discrimination which is in conformity with article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. Prohibited grounds of discrimination include national origin, colour, sex, family situation, health, political opinion, labour union membership, as well as ethnicity, nationality and religion. Acts of discrimination may concern both physical and moral persons. Morocco's Labour Code, as well as specific legislation dealing with the media, associations and political parties also expressly provide for sanctions in case of discrimination. Furthermore, specific provisions have been designed for penitentiary institutions. They prohibit discrimination among detainees on the basis of race, colour, sex, nationality, language, religion, opinion or social class. Female detainees are also subject to specific protection provisions.

54. Morocco's policy vis-à-vis the Amazigh people does not fall within the framework of the elimination of racial discrimination, but rather within the project of a democratic society in a modern state based on equality and social solidarity, as well as on the sources of its national identity.

55. On the question of propaganda and incitement to racial discrimination, Morocco indicated that discriminatory propaganda and ideas constitute criminal offences. In this regard, the Press Code prohibits and punishes incitement to racial discrimination through public means or discourses. Complicity with the offenders is also taken into account in case of incitement to racial discrimination.

56. Morocco has taken legislative measures in order to prohibit the establishment of associations or political parties based on discriminatory or superiority claims. Contraventions to these laws constitute civil and criminal offences. The Moroccan authorities recalled that according to the 2007 law on political parties, political parties established on the basis of religion, language, race, ethnicity or region, or more generally on any discriminatory basis contrary to human rights standards, shall be declared null and void. The Moroccan authorities indicated that there exist no political parties based on discrimination. Indeed, members of political parties in Morocco include Amazigh, Arabs and Sahrawi, Muslims and Jews. In this respect,

the authorities prohibited the establishment of the Amazigh Democratic Party, since it was based on racial grounds.

57. Finally, during the Durban Review Conference, Morocco stated that the Review Conference shall focus on the establishment of operational mechanisms which would help to implement the 2001 recommendations made at the World Conference against Racism. In particular, emphasis was put on the need for justice for all victims of racism and on the organization of regional seminars on racial hatred and freedom of expression. In this respect, Morocco has offered to host one of these seminars for the African region.

K. Russian Federation

58. In its reply, the Russian Federation indicated that according to its Constitution, all forms of racial discrimination are prohibited. In this regard, the Constitution includes provisions on equality before the law, equality of rights and freedoms regardless of sex, race, nationality, language, origin, property or employment status, residence, attitude to religion and convictions. It was emphasized that public associations restricting the rights of citizens or inciting to social, racial, national, or religious hatred, as well as resorting to language expressing superiority are prohibited.

59. According to the 2002 Law on "Countering extremist activities", the advocacy of superiority or inferiority of citizens on the basis of religious, social, racial, national or linguistic affiliations constitute extremist activities. Extremism is defined as bringing about violations of the rights and freedoms of individuals, causing harm to their personality, health, environment, social order, and national security. Moreover, the activities of social or religious organizations, which do not have legal entity status, might be subjected to prohibition. According to this law, a judicial decision resulted in the prohibition of the activities of eight social and religious organizations in the Russian Federation.

60. With respect to the use of new information technologies for extremist activities, reference was made to the applicability of the Law on information, computerization and protection of information and to the Law on countering extremist activities to cases of extremist activities, such as the distribution and publication of extremist materials and public incitement to extremist activities. According to these laws, the persons involved in these extremist activities may receive an official warning or may be subject to administrative or criminal sanctions.

61. The authorities closely collaborate with journalists' unions, social and human rights organizations, religious figures and scientists in order to prevent and monitor extremist activities undertaken on Russian territory. In this regard, an Independent Committee has been set up to investigate cases of extremist activities, and working groups of the General Prosecutor Office have also been established in order to report on extremist incidents. Other measures include awareness activities specifically aimed at young people.

62. The Government of the Russian Federation stresses the importance of fostering a tolerant society in order to fight all forms of racism, including those which are based on ideology of Nazism. It emphasized the important role played by teachers,

academics and scientists in providing an education which contributes significantly to the development of society based on the values of patriotism, citizenship and prevention of extremism and xenophobia. In this respect, the issue of unbiased school textbooks was specifically underlined.

63. In its reply, the Russian Federation referred to a number of measures taken in order to foster a tolerant society. These include:

(a) The 2001 legislation which initiated the programme on the "Formation of the basis of tolerant consciousness and prevention of extremism in Russian society";

(b) Several national programmes, such as the "Federal project of development for the young generation for the years 2006-2010", the programme "Patriotic education of citizens for the years 2006-2010", the "Increase of accessibility to and quality of services for additional education of children and the enhancement of their social-adaptive functions", as well as the programme on the "Improvement of the educational system";

(c) Support to religious organizations that are actively engaged in programmes for the spiritual and moral enlightenment of the society;

(d) The establishment of national cultural centres collaborating with the Ministry of Culture for the preservation of the national and cultural identity of immigrants. These national cultural centres actively support the formation of a tolerant attitude towards immigrants and aim at harmonizing inter-ethnic relations. Immigrants who wish to acquire knowledge of the local languages, literature and culture of the region they live in also have access to information centres such as libraries, museums, special public centres, which provide tailored information on these topics;

(e) Support to publications, events and movies which focus on national cultures of the Russian people and which emphasize a negative attitude towards extremist activities and terrorism.

64. For the future, it is planned to create a social service for conflict prevention. The authorities will also encourage non-governmental organizations to work on the question of the integration of migrant workers. In addition, information campaigns on peaceful inter-ethnic relations, such as the one planned in Saint-Petersburg on the harmonization of inter-ethnic and intercultural relations, prevention of xenophobia, fostering of tolerance for the years 2006-2010, will also be launched. The Russian Federation indicated that all these initiatives will be coordinated by a Special Committee for young people, which primarily focuses on campaigns fostering tolerance among young people.

L. Spain

65. In its reply, Spain indicated that in 2008 two new ministerial offices had been established, including the Ministry of Work and Immigration and the Equality Ministry. The Equality Ministry is responsible for proposing and implementing the Government's policies on equality, combating racial discrimination and gender violence and in particular, the creation and development of measures aimed at ensuring equal treatment and opportunities in all sectors of society.

66. In terms of concrete measures taken within the framework of the newly created Ministry of Equality, it furthermore mentioned the establishment in 2008 of the Council for the Promotion of Equal Treatment and the Prevention of Discrimination on the basis of Racial or Ethnic Origin. Ten individuals have been selected to represent the aforementioned body and will assume their positions once the necessary legal steps have been taken.

67. The General Committee against Discrimination has been supporting the activities of organizations associated with combating racism and xenophobia in Spain. One such example was the publication and dissemination of a report presented before the Ministry by the Foundation for the Gypsy Secretariat. The report highlights cases of discrimination against the gypsy community.

68. Spain further provided information about other initiatives established to combat racism and other forms of discrimination. The Strategic Plan for Citizenship and Integration (2007-2010), has been developed to ensure that all social partner interests, including those of migrants, are represented and that all measures are taken to uphold the basic principles of equality and non-discrimination. Within the aforementioned Plan, further measures are envisaged in order to avoid discriminatory treatments, such as aid programmes for the victims of discrimination, analysis of national and local legislation in order to identify and eliminate possible discriminatory elements.

69. Finally, Spain pointed out that by means of the 2000 Law on the rights and freedoms of foreigners in Spain, the Spanish Observatory on Racism and Xenophobia was established. The aforementioned body is mandated to promote research on the topics of discrimination and racism.

M. Switzerland

70. In its reply, Switzerland indicated that the ratification of international conventions was the expression of its political will to fight racism at different levels. The Swiss Confederation, the cantons, communes, non-governmental organizations and private sector have all been working in the area of prevention for many years in favour of victims of discrimination. However, there remains much to do in order to protect the potential victims. Switzerland intends to rely on the Durban Declaration and Programme of Action, as well as on the outcome document of the Durban Review Conference in order to assess the existing measures, to enhance those which have proven effective and to develop new measures where necessary.

71. In the aftermath of the World Conference against Racism, the Service for Combating Racism was established in 2001. It provides funds for projects aimed at combating racism. Specific projects by the Service for Combating Racism include the upcoming launch of a national inquiry on racism and xenophobia and the establishment of a monitoring system of racism, xenophobia and discrimination, based on data, instruments and methods already used by public authorities, international organizations and civil society. In addition, the Service for Combating Racism has published a guide on how to fight racial discrimination by means of legislation.

72. The new federal law on foreigners includes the principles and objectives of Switzerland's integration policy. Integration aims at providing equality of chances and at encouraging participation of the foreign population in different areas of social life, such as vocational training, access to the labour market or health services. The Federal Office for Migration and the cantons bear the primary responsibility in the implementation of this integration policy.

73. Switzerland provided information about a number of measures taken in order to fight racism and discrimination. Among others, it referred to initiatives of the Federal Office for Gender Equality; prevention projects in the area of migrants' health; projects in the area of education aimed at integrating migrants' children and at providing human rights education to students; the Swiss Coordination Unit for Cybercrime Control, which also undertakes research on the Internet to fight against criminality, in particular right-wing extremism and racism; and codes of conducts elaborated by institutions related to media, such as the Swiss Press Council, which aim at ensuring independence and freedom of information in accordance with human dignity and non-discrimination.

N. Syrian Arab Republic

74. In its reply, the Syrian Arab Republic pointed out that the problem of racial discrimination was not one that afflicts Syrian society. Syrian laws, including the Constitution, allow citizens to exercise their fundamental rights in a manner that ensures justice and equity for all. Consequently, the Government emphasized that there were no "hate crimes" in the sense as commonly understood in certain societies.

75. The Syrian Arab Republic has acceded to all the United Nations conventions against racism and racial discrimination, and domestic law punishes offences based on discrimination. For instance, under the Criminal Code, a penalty is imposed for any acts, writings or speech aimed at or giving rise to the creation of interconfessional or racial strife or the provocation of conflict between different religious denominations.

76. The fifteenth plan which will guide the Government's actions over the next five years will include the dissemination of a human rights culture and the delivery of human rights training. In order to do so, the Syrian Arab Republic will endeavour to link human rights programmes to development programmes, to government sectors, to the eradication of poverty and balanced regional development, and will seek to ensure respect for the human rights set out in the Constitution and in the applicable international treaties. It is also planned to include human rights education in general education curricula; to task all development sectors with safeguarding and applying human rights within their respective areas and with taking due account of these rights when designing sectoral plans; and to provide journalists and media personnel with training on the promotion and defence of human rights.

77. The Syrian Arab Republic will amend the laws on economic and civil rights in line with its international obligations; develop institutions capable of translating the Constitution into tangible practices, and boosting these efforts through the independence of the judiciary and the separation of powers; create a stronger institutional framework for the Cabinet's Higher Committee for Human Rights; and support the role of civil society human rights organizations.

78. Various programmes on the promotion and protection of human rights will be carried out by the Government. They include specific programmes for women, children, the environment, economic rights, health, education, work and culture; awareness-raising activities; training programmes for judges in the resolution of human rights disputes; training programmes for security and police personnel on dealing with citizens and ensuring respect for human rights.

79. Finally, the Syrian Arab Republic stated that racism remained at the root of the continual suffering inflicted on entire peoples living under foreign occupation, as in the Occupied Palestinian Territories and the occupied Syrian Golan.

O. Togo

80. In its reply, Togo reaffirmed its commitment to a universal vision of human rights. All individuals have therefore the same rights and they cannot be restricted on the basis of race, sex, culture, religion or any other ground. The Government emphasized that Togo had ratified the quasi-totality of international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination. As reaffirmed by the Durban Declaration and Programme of Action, the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument to eliminate racism, racial discrimination, xenophobia and related intolerance. In order to implement article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, States must take legislative, administrative, judiciary and other measures in order to prevent and sanction racial discrimination at all levels of public life.

81. In spite of the efforts made at the international level, racism and racial discrimination have intensified in most regions of the world. While globalization should favour public awareness of the necessary political, economic and social interdependence between all countries, it has in fact exacerbated inequalities, poverty and exclusion, which ultimately foster racism and xenophobia. In this respect, Africa, which has been faced with slavery and colonialism in the past, continues to suffer from contemporary forms of racism.

82. Nonetheless, contemporary forms of racism transcend borders and racism is a universal phenomenon. The recrudescence of racist and xenophobic violence against ethnic, religious or cultural communities and indigenous peoples constitute severe blows against the determination of the international community to uphold the principles of non-discrimination and human dignity.

83. According to the Government of Togo, contemporary forms of discrimination fall within the scope of the International Convention on the Elimination of All Forms of Racial Discrimination, in particular its article 4, taking into account the wide scope given to the expression "racial discrimination" in the Convention. Togo condemns the dissemination of racial hatred through the media, including the Internet. In this respect, reference is made to articles 19, paragraph 3, and 20 of the International Covenant on Civil and Political Rights, and to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination.

84. While Togo has not yet adopted a plan of action in accordance with the Durban Declaration and Programme of Action, it has taken into account the provisions of

the International Convention on the Elimination of All Forms of Racial Discrimination in its human rights education policy. Other measures which aim at harmonizing national legislation with international standards, including those contained in the International Convention on the Elimination of All Forms of Racial Discrimination, pertain to the implementation of programmes on the modernization of justice, on human rights promotion and protection and on the consolidation of democracy.

P. Turkmenistan

85. In its reply, Turkmenistan indicated that reforms aimed at facilitating the progressive renewal of the social and political system have been introduced under President Berdymukhammedov. With regard to international obligations, Turkmenistan accepts the provisions of the Universal Declaration of Human Rights and has ratified the basic international human rights instruments.

86. In 2007 the President of Turkmenistan established a State commission to consider complaints concerning actions by law enforcement agencies. Another interdepartmental commission on ensuring Turkmenistan's compliance with its international human rights obligations was also established in 2007 in order to facilitate the preparation of national reports on the country's compliance with international human rights agreements. In addition, another State commission was set up in 2007 with the mandate of monitoring the country's legislative framework and implementing established standards of international law.

87. The Constitution was amended in 2008. In compliance with the recommendations of human rights treaty bodies, the provisions on equal rights for all, regardless of any particular characteristics, have been extended to include the characteristics of race and sex. Article 19 of the revised Constitution now guarantees the equality of human and citizens' rights and freedoms irrespective of ethnicity, race, sex, origin, property status, official position, place of residence, attitude to religion, political convictions or membership or non-membership of a political party. The rights and freedoms provided for in the Constitution for nationals of Turkmenistan extend equally to foreigners and stateless persons, with the exception of specific rights directly arising out of Turkmen nationality.

88. The Government of Turkmenistan is taking all necessary practical and legal steps to eliminate all forms of racial discrimination and to prevent incitement to acts of violence against any individual or group of persons of another colour or ethnic origin. There are firm legal guarantees that any attempted discrimination on racial or ethnic grounds by officials, individuals, groups or institutions shall be prohibited and, if necessary, suppressed. The principle of non-discrimination underlies the operation of all high-ranking and local authorities and administrations, the electoral system, the organization and work of the law enforcement and judicial agencies and the systems of health care, social security, education and others. Incitement to ethnic or racial hatred, strife or disrespect, or recourse to violence on ethnic, racial or religious grounds, renders the perpetrator liable under the corresponding legislation.

89. Provisions on the prohibition of discrimination on various grounds, such as origin, social position, property status, official position, ethnicity, race, sex, education, language, age, attitude to religion, type or nature of occupation, political convictions, place of residence or any other circumstance, have been introduced in

several legal provisions, including the 2009 Code of Criminal Procedure; the 1998 Criminal Code; the 1991 Judicial System and Status of Judges Act; the Police Act; the Marriage and Family Code; the 2007 Women's Equality Act; the 2005 Health Act; the 2003 Freedom of Faiths and Religious Organizations Act; the 2002 Rights of the Child (Safeguards) Act; the 2009 Labour Code; the 2002 Government Leaders and Public Officials (Selection) Act; and the 1997 Civil Service Act.

90. Finally, Turkmenistan stressed that the Education Act provides for the universal access for each citizen to all forms and kinds of educational services provided by the State. The Government also mentioned that representatives of ethnic minorities are able to study in ethnic and mixed schools. For instance, Turkmenistan has concluded agreements with the Russian Federation, Kazakhstan and Uzbekistan to open schools for their respective diasporas.

Q. Ukraine

91. In its reply, Ukraine indicated that in accordance with article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination and article 24 of its Constitution, all Ukrainians have equal constitutional rights and freedoms and equality before the law. Foreigners and stateless persons lawfully present in Ukraine enjoy the same rights and freedoms.

92. Ukraine has an established body of laws and regulations with mechanisms providing extensive possibilities for counteracting any manifestations of racism, racial discrimination, xenophobia, intolerance or prejudice against individuals on the basis of their ethnicity. Those laws and mechanisms are under constant review by the President and Government of Ukraine.

93. In this respect, on the instructions of the Cabinet of Ministers of Ukraine, an interdepartmental working group has been set up to consider action against xenophobia and inter-ethnic and racial intolerance. The working group approved a plan of measures to counter manifestations of xenophobia and inter-ethnic and racial intolerance.

94. Ukraine provided further information about the conduct of investigations on offences arising out of racial, ethnic or religious intolerance. The law enforcement agencies monitor the circumstances surrounding ethnic offences and analyse the activities of radical organizations and movements. Measures are taken to prevent or detect particularly serious offences against foreigners. In this regard, meetings are regularly held with representatives of Asian and African communities and groups living in Ukraine. In 2009, procedural recommendations entitled "Your rights and how to protect them" have been drawn to the attention of foreign communities in order to help their understanding of national laws.

95. In addition to the above, a round table was held in April 2009 with the participation of State representatives and civil society organizations on the theme "Results of the work of law enforcement agencies on preventing unlawful actions against ethnic minorities and the difficulties arising out of the prosecution of persons involved in such crimes". Another round table was held in May 2009 in order to work out common ideas on the prevention of racism and xenophobia in Ukraine.

R. Venezuela (Bolivarian Republic of)

96. In its reply, Venezuela reiterated its commitment to continuing the fight against all forms of racism, discrimination, xenophobia and related forms of intolerance.

97. Articles 19 and 21 of its Constitution affirm that in accordance with the principle of non-discrimination, the State shall guarantee every individual the right to enjoy basic human rights and freedoms. Discrimination based on race, sex, creed, social origin or any other discriminatory practice which may nullify or impinge upon the recognition of the rights and freedoms of all individuals is prohibited by the Constitution and everyone is considered equal before the law.

98. Venezuela firmly rejects any attempt by individual organizations or movements to establish ideologies based on racial, ethnic or religious superiority or the promotion of contemporary forms of racism or xenophobia through incitement to hatred which seek to threaten individual rights and freedoms under international law.

99. Finally, Venezuela noted that it is committed to eliminating all forms of racism and xenophobia through the implementation of national, regional and international mechanisms, particularly those established by the International Convention on the Elimination of All Forms of Racial Discrimination as well as within the framework of the Durban Declaration and Programme of Action.

III. Conclusions and recommendations

100. **The Special Rapporteur is grateful to all States which shared information on their activities undertaken pursuant and relevant to General Assembly resolution 63/162. Such an exchange of information, which has often been encouraged within the framework of the review process of the World Conference held at Durban, allows for the establishment of an initial catalogue of good practices in the fight against racism, racial discrimination, xenophobia and related intolerance. The Special Rapporteur would like to emphasize that racism and xenophobic violence targeting members of ethnic, religious or cultural minorities and national minorities transcend international borders. Consequently, while the activities of Governments described above are most often country-specific, since they are designed to respond to a certain political, historical, economic and sociocultural context, they might also apply to, or at least constitute a source of inspiration for, other countries facing similar problems.**

101. **As referred to in resolution 63/162, the Special Rapporteur would like to call upon States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to fully comply with their international obligations. According to article 4 of the Convention, States parties:**

(a) **Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;**

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

102. In addition, the Special Rapporteur also would like to refer to paragraph 86 of the 2001 Durban Programme of Action which calls upon States to "promote measures to deter the emergence of and to counter neo-fascist, violent nationalist ideologies which promote racial hatred and racial discrimination, as well as racist and xenophobic sentiments, including measures to combat the negative influence of such ideologies especially on young people through formal and non-formal education, the media and sport" (see A/CONF.189/12, chap. I).

103. While legislative measures are necessary in order to prohibit and sanction the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as acts of violence or incitement to such acts against a specific group of persons, the Special Rapporteur is of the view that legislative measures on their own are usually insufficient to effectively prevent and combat the aforementioned phenomena. States should indeed engage in broad efforts to combat negative stereotypes of, and discrimination against, individuals and groups, and to promote intercultural understanding.

104. Education is needed to complement legislative measures. Although education demands long-term investment by the State and the benefits thereof can be assessed only in the long run, it is undoubtedly the most effective instrument to dismantle pervasive social constructions based on racial differentiation and to create a society based on pluralism, tolerance and respect towards other communities. School classes which are inclusive and representative of the society's ethnic and cultural diversity, unbiased schoolbooks aimed at reflecting, with objectivity and accuracy, the history of minorities and the relations with neighbouring countries, well-trained teachers and human rights courses are in this respect essential to instil a tolerant and respectful mindset from an early age. Exchange programmes at school also represent an excellent opportunity for pupils and students to be in contact with their peers from other communities, countries and regions. More specifically, the Special Rapporteur would like to emphasize the importance of history classes in teaching the dramatic events and human sufferings which resulted out of ideologies such as Nazism and Fascism. While history classes may be taught in schools, the Special Rapporteur would like to encourage States to adopt innovative approaches in this regard. For instance, the creation of educational websites dedicated to this topic may facilitate the access to information thereon.

105. Furthermore, other positive measures, which are described by some States in their replies above, include training seminars for State agents and media professionals, initiatives aimed at bringing communities together and providing them with space for genuine dialogue, such as round tables, working groups and seminars, as well as awareness-raising activities, such as information campaigns. It is only by implementing this wide array of actions that States will ensure that the dissemination of ideas based on racial superiority or hatred,

incitement to racial discrimination, as well as acts of violence or incitement to such acts against a specific group of persons, are eliminated in the long term. In doing so, States should not only prepare these measures in close collaboration with civil society representatives, who have an important role to play in the fight against racism, but they should also encourage and fully support civil society initiatives aimed at fostering pluralism and tolerance.

106. As mentioned by some States in their replies summarized above, the existence of accessible and effective remedies is an absolute necessity to deter and fight the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as acts of violence or incitement to such acts against a specific group of persons. Legislation prohibiting and sanctioning such phenomena must be implemented by State authorities and be supported by an effective administration of justice. The Special Rapporteur would like to recall that impunity of acts motivated by racial hatred may lead to the recurrence of those acts. States therefore have the responsibility to ensure that impunity is not granted for those acts and that all individuals under their jurisdiction are made aware of the existence of judicial and non-judicial remedies in case they are subjected to racism. In addition to these remedies, States should also ensure that individuals and groups of individuals who have been subjected to the dissemination of discriminatory ideas or those expressing hatred against them are guaranteed a right of correction and reply, whether by mass media or other public means.

107. Surveys and ethnically disaggregated data on crimes motivated by racial hatred or "hate crimes" may help States to better understand the structural reasons which lead to the perpetration of such odious acts. In collecting such data, States should at all times respect the principles of privacy and self-identification. While the Special Rapporteur is aware of the reticence among some States against the collection of ethnically disaggregated data, he is of the view that such data are necessary for policymakers to adjust their policies to the context in which racism evolves. Therefore, the Special Rapporteur would like to recommend that States collect ethnically disaggregated data on hate crimes, so as to be in a position to better understand who the victims of these crimes are, who the perpetrators are, what their motivations are, whether they are affiliated with neo-Nazi, neo-fascist and skinhead groups and to what extent victims of those crimes do report to the police authorities.

108. Finally, while the terms racism, racial discrimination, xenophobia and related intolerance are, in some regions of the world, used mainly exclusively for extremist right-wing groups, including neo-Nazi, neo-fascist and skinhead groups, the Special Rapporteur would like to recall that racism is a pervasive phenomenon affecting all layers of society and all countries of the world. Its manifestations vary widely, according to the context in which it evolves. Consequently, the Special Rapporteur would like to first recommend that States acknowledge that racism exists in their society and secondly, that States adopt a broader understanding of the notions of racism, racial discrimination, xenophobia and related intolerance in order to take all appropriate measures to fight its manifold manifestations.